

The Board will make reasonable accommodations for qualified persons with disabilities in accordance with policy 110, *Nondiscrimination*, and the requirements of state and federal law. An individual with a disability may be accompanied by his or her service animal on school property unless the animal is properly excluded as set forth in section E of this policy. The superintendent shall establish any necessary administrative regulations for the use of service animals on school property.

A. DEFINITION OF “SERVICE ANIMAL”

A “service animal” for purposes of this policy is any dog that has been individually trained to do work or perform tasks for the benefit of an individual with a disability, including, but not limited to, a physical, sensory, psychiatric, intellectual or other mental disability. The work or tasks performed by a service animal must be directly related to the individual’s disability or necessary to mitigate a disability.¹ Service animals do not include any other species of animal, whether wild or domestic, trained or untrained. Animals whose sole function is to provide emotional support, well-being, comfort, companionship or therapeutic benefits or to act as a crime deterrent are not service animals for the purposes of this policy.

Buncombe County Schools may make reasonable modifications in its policies, procedures, or practices to permit the use of a miniature horse by an individual with a disability, as allowed under the law.

B. USE OF A SERVICE ANIMAL ON SCHOOL PROPERTY BY STUDENTS AND EMPLOYEES

1. Introduction of a Service Animal

School administrators shall facilitate the introduction of an eligible service animal into the school environment. To promote a successful integration of the service animal into the educational program and to minimize unnecessary disruption, an employee or student with a disability who intends to bring a service animal to school during the school day is encouraged to follow these guidelines.

¹ Examples of work or tasks include assisting individuals who are blind or have low vision with navigation and other tasks, alerting individuals who are deaf or hard of hearing to the presence of people or sounds, providing non-violent protection or rescue work, pulling a wheelchair, assisting an individual during a seizure, alerting individuals to the presence of allergens, retrieving items such as medicine or the telephone, providing physical support and assistance with balance and stability to individuals with mobility disabilities, and helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors. The crime deterrent effects of an animal’s presence and the provision of emotional support, well-being, comfort or companionship do not constitute work or tasks for the purposes of this definition. See 28 C.F.R. 35.104.

- a. The employee, student or student's parent should notify the superintendent and the principal of the applicable school in writing at least 10 work days prior to the date proposed to bring the service animal onto school property.
 - b. The employee, student or student's parent should work with school personnel to create a plan addressing the presence of the service animal during the school day. A plan to integrate a service animal into the school environment should include the following:
 - 1) appropriate training for school personnel and students regarding interaction with the service animal;
 - 2) any necessary modifications to the educational program so that the employee or student with a disability may be accompanied by the service animal; and
 - 3) address, when necessary, the presence of a handler other than the employee or student with the disability to control or care for the service animal.
 - c. The service animal should wear identification to provide adequate notice to students, school personnel and school visitors that the dog is a service animal.
 - d. The service animal should be free of parasites and otherwise in good health.
2. Presence of a Service Animal on School Property

An employee or student with a disability accompanied by a service animal must meet the following requirements for a service animal to be present on school property.

- a. A student or employee who elects to be accompanied by a service animal will be expected to care for and supervise the animal. If a student is not capable of providing adequate care and supervision, the parent will be responsible for providing such care and supervision.
- b. If a student requires assistance from a parent or handler to control and care for the service animal while on school property, that individual must submit to a background screening, which may include a criminal history check in accordance with state law and any procedures established by the superintendent.
- c. The service animal must be on a leash or other mechanical restraint at all times. If mechanical restraint is not feasible due to a student's disability, the animal must be under other sufficient means of control.

- d. The service animal must be housebroken, under the control of its handler, and have received all necessary vaccinations as required by state law.

C. USE OF A SERVICE ANIMAL ON SCHOOL PROPERTY BY SCHOOL VISITORS

A school visitor who is an individual with a disability may be accompanied by a service animal in accordance with all applicable state and federal laws and regulations. A service animal that is accompanying a school visitor may be properly excluded from school property for a reason(s) set forth in section E of this policy.

D. LIABILITY

The board may hold the owner or handler of a service animal liable for any property damage caused by the animal to the same extent required by other board policy or administrative rules that impose liability for property damage. In addition, either the owner or handler, or both may be liable for personal injury caused by the animal or related to the presence of the animal on school property. It is suggested, but not required, that the owner of a service animal have sufficient liability insurance to cover personal injury or property damage caused by the service animal.

E. EXCLUSION OF A SERVICE ANIMAL FROM SCHOOL PROPERTY

School personnel shall not ask an individual with a disability about the nature or extent of his or her disability or for proof of a service animal's training as a condition of allowing the animal onto school property. However, when not readily apparent to school personnel, a principal or designee may inquire as to whether the animal is required because of a disability and what work or task the animal has been trained to perform. Such inquiries may be made to confirm that the dog is a service animal and is rightfully present on school property. This provision does not preclude an IEP team, 504 team, or other school-based team to gather data or evaluate a student suspected of having a disability as required by law.

A principal or designee may exclude a service animal from school property for the following reasons:

1. The animal poses a direct threat to the health or safety of others that cannot be eliminated by reasonable modifications.²
2. The animal is out of control and the animal's handler does not take effective action to control it.
3. The animal is not housebroken.

² A direct threat is defined as "a significant risk to the health and safety of others that cannot be eliminated by a modification of policies, practices or procedures." 28 C.F.R. 35.104. Official commentary in 75 FR 56193 (March 15, 2011) describes this exclusion. See also 28 C.F.R. 35.130(h).

4. The presence or behavior of the animal fundamentally alters the service, program or activity of the school system.

If a principal or designee excludes a dog or service animal from school property, the principal or designee must document the reasons for the exclusion and notify the superintendent. The superintendent or designee will make a determination on whether a service animal will be allowed to return to the school and, if reasonably possible, notify the individual with the disability in writing of the decision within five work days of the initial exclusion.

If the superintendent determines that an animal does not meet the definition of a service animal or that a service animal should be excluded for one or more of the reasons described in this section, the student's Section 504 or IEP Team shall meet to consider and document whether the animal's presence is necessary for the child to receive an appropriate education or to have equal access to the educational program and, if not, whether the child needs other aids and services or accommodations.

If a service animal is excluded, an individual with a disability will be provided the opportunity to participate in educational services, programs or activities as required by law without having the service animal on the premises.

F. APPEAL OF AN EXCLUSION OF A SERVICE ANIMAL FROM SCHOOL PROPERTY

The superintendent's decision regarding exclusion of a service animal from school property in accordance with this policy may be appealed consistent with N.C.G.S. 115C-45(c).

Legal References: Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, 28 C.F.R. pt. 35; Individuals with Disabilities Education Act, 20 U.S.C. 1400 *et seq.*, Rehabilitation Act of 1973, 29 U.S.C. 705(20), 794, 34 C.F.R. pt. 104; G.S. 130A-185, 168 art. 1, 168A-3 through -7

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